

Hearing Date and Time: November 15, 2018 at 10:00 a.m. (Eastern Time)

Objection Date and Time: November 8, 2018 at 4:00 p.m. (Eastern Time)

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:

SEARS HOLDINGS CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 18-23538

(Jointly Administered)

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); and Sears Brands Management Corporation (5365). The location of the Debtors' corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179. The Debtors also include SHC Licensed Business LLC (3718), filed as Case No. 18-23616 and SHC Promotions LLC (9626), filed as Case No. 18-23630 (the "Additional Debtors"). The Additional Debtors each filed a motion in their respective chapter 11 case requesting joint administration with the Debtors for procedural purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure.

**RESERVATION OF RIGHTS OF THE CHUBB COMPANIES TO
THE MOTION OF DEBTORS FOR ENTRY OF AN ORDER AUTHORIZING
AND ESTABLISHING PROCEDURES FOR DE MINIMIS ASSET SALES
AND DE MINIMIS ASSET ABANDONMENTS**

ACE American Insurance Company, Indemnity Insurance Company of North America, ACE Property and Casualty Insurance Company, Illinois Union Insurance Company, ACE Fire Underwriters Insurance Company, Westchester Surplus Lines Insurance Company, Westchester Fire Insurance Company and Federal Insurance Company (and, together with each of their affiliates and successors, the “Chubb Companies”), by and through their undersigned counsel, hereby file this reservation of rights (the “Reservation of Rights”) with respect to the *Motion Of Debtors For Entry Of An Order Authorizing And Establishing Procedures For De Minimis Assets Sales And De Minimis Asset Abandonments* [Docket No. 427] (the “Motion”) and in support of the Reservation of Rights, the Chubb Companies respectfully state as follows:

BACKGROUND

A. The Bankruptcy Case

1. On October 15, 2018 (the “Petition Date”), Sears Holding Corporation and certain of its affiliates (collectively, the “Debtors”) each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Court”).

2. On November 1, 2018, the Debtors filed the Motion.²

3. Pursuant to the Motion, the Debtors seek, *inter alia*, an order authorizing and establishing expedited procedures to sell or transfer certain De Minimis Assets, including any rights or interests therein, that are allegedly of relatively de minimis value.

² All capitalized terms used herein but not defined shall have the meanings ascribed to them in the Motion.

4. Pursuant to the De Minimis Asset Sale Procedures proposed in the Motion, the Debtors seek authority to sell or transfer De Minimis Assets at a selling price less than or equal to \$2,500,000 without further order of the Court or notice to any party if the Debtors determine that such sale is in the best interests of the estates.

5. Further, with respect to sales or transfers of De Minimis Assets with a selling price of greater than \$2,500,000 but less than or equal to \$15,000,000, the Debtors seek authorization to consummate such sale without further order of the Court and with written notice to only certain parties, including (i) counsel for the Creditors' Committee; (ii) the U.S. Trustee; (iii) counsel to the DIP ABL Agents; and (iv) "any known affected party, including counsel to any creditor asserting a lien, claim, encumbrance on, or interest in the relevant assets." See Motion at ¶ 13(b)(iii).

B. The Insurance Programs

6. Prior to the Petition Date, the Chubb Companies issued certain insurance policies (as renewed, amended, modified, endorsed or supplemented from time to time, collectively, the "Policies") to one or more of the Debtors as named insureds.

7. Pursuant to certain Policies (together with any agreements related thereto, the "ACE Insurance Program"), ACE American Insurance Company, Indemnity Insurance Company of North America, ACE Property and Casualty Insurance Company, Illinois Union Insurance Company, ACE Fire Underwriters Insurance Company, Westchester Surplus Lines Insurance Company and Westchester Fire Insurance Company provide, *inter alia*, property, primary casualty, directors and officers, general liability, excess general liability, international casualty, workers' compensation, excess workers' compensation, excess fire, international advantage, umbrella excess, environmental, fiduciary liability, automobile liability, professional liability,

construction wrap up, employment practices liability, inland marine and other insurance for specified policy periods subject to certain limits, deductibles, retentions, exclusions, terms and conditions, as more particularly described therein and the insureds, including one or more of the Debtors, are required to pay to the Chubb Companies certain amounts including, but not limited to, insurance premiums (including audit premiums), deductibles, funded deductibles, expenses, taxes, assessments and surcharges, as more particularly described in the ACE Insurance Program (the “ACE Program Obligations”).

8. Pursuant to other Policies (together with any agreements related thereto, the “Chubb Insurance Program”, and collectively with the ACE Insurance Program, the “Insurance Programs”),³ Federal Insurance Company and certain other of the Chubb Companies provide, *inter alia*, guild travel accident, boiler & machinery, fire, crime, excess crime, directors and officers, excess, export package, excess retail, fiduciary liability, general liability, property, package, fire, cargo, automobile liability, umbrella, workers’ compensation, and other insurance for specified policy periods subject to certain limits, deductibles, retentions, exclusions, terms and conditions, as more particularly described therein, and the insureds, including one or more of the Debtors, are required to pay to the Chubb Companies certain amounts including, but not limited to, insurance premiums (including audit premiums), deductibles, funded deductibles, expenses, taxes, assessments and surcharges, as more particularly described in the Chubb Insurance Program (the “Chubb Program Obligations,” and collectively with the ACE Program Obligations, the “Obligations”).

³ The descriptions of the Insurance Programs set forth herein are not intended to, and shall not be deemed to amend, modify or waive any of the terms or conditions of the Insurance Programs. Reference is made to the Insurance Programs for a complete description of their terms and conditions.

9. The Debtors' Obligations are payable over an extended period of time and are subject to future audits and adjustments.

RESERVATION OF RIGHTS

10. The Chubb Companies file this Reservation of Rights with respect to the Motion to put the Debtors and all other parties on notice that, to the extent the Debtors purport to assume and assign, sell, or otherwise transfer all or any part of either of the Insurance Programs through any De Minimis Asset Sale, the Chubb Companies constitute a "known affected party" entitled to notice of such De Minimis Asset Sale.

11. The Chubb Companies further reserve all of their rights with respect to the Motion, the De Minimis Asset Sale Procedures, and all purported De Minimis Asset Sales, including, but not limited to, the right to object to any individual De Minimis Asset Sale or any purported assumption and assignment, sale, or other transfer of all or any part of either of the Insurance Programs.

WHEREFORE, the Chubb Companies reserve their rights with respect to the Motion.

Dated: November 8, 2018

Respectfully submitted,

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